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IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

DARRYL SINKFIELD, QUINTON ROSS, BERNEST BROOKS, RUBIN MCKINNON and ANDREW HAYDEN,

Petitioners,

vs.

PAUL CHARLES WESCH, MICHAEL FIGURES, JOSEPH MITCHELL, CHARLES STEELE, GARRIA SPENCER, JAMES FOLSOM and JIM BENNETT,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

RESPONDENT PAUL CHARLES WESCH'S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

Whether a District Court abused its discretion when it enjoined a state court congressional redistricting action under the following circumstances:

1. The state court action was not commenced until after the District Court had entered, in an action in which the state court plaintiffs were represented as members of a certified class of Plaintiff/Intervenors, a final judgment implementing a remedial redistricting plan for the remainder of this decade or until the state legislature enacts a timely, valid plan of its own.

2. The state court action was not commenced until after the 1992 congressional elections had been conducted under the District Court's remedial plan.

3. The state court action was not commenced until after this Court had twice upheld the District Court's plan on appeal, including one appeal by the certified class (including the state court plaintiffs) which raised the same contention which formed the apparent basis of the later state court lawsuit.

4. Notwithstanding the allegations of their state court complaint, the state court plaintiffs conceded that the remedial plan adopted by the District Court was a valid, constitutional plan.

PARTIES

The parties in the Court of Appeals are shown on the caption on the cover of this brief. The parties in the District Court who did not appear in the Court of Appeals are listed in footnote 1 of the Petition for Writ of Certiorari.

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CITATIONS TO THE OPINIONS AND JUDGMENTS DELIVERED IN THE COURTS BELOW

The Respondent Wesch adopts the statement set forth on page 1 of the Petition for Writ of Certiorari.

STATEMENT OF THE GROUNDS OF JURISDICTION

The Respondent Wesch adopts the statement set forth on page 1 of the Petition for Writ of Certiorari.

STATUTES INVOLVED

28 U.S.C. § 1651(a):

> "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

28 U.S.C. § 2283:

> "A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments."

STATEMENT OF THE CASE

The Respondent Paul C. Wesch ("Wesch") initiated this litigation on September 23, 1991 in the United States District Court for the Southern District of Alabama. His complaint alleged that Alabama's congressional districts were unconstitutionally malapportioned and that the Alabama Legislature had failed to re-draw the districts following the 1990 census. Therefore, the complaint sought an injunction against the conducting of any further elections under the existing districts and the implementation of a remedial redistricting plan. The named Defendants were Alabama's Governor, Secretary of State and Attorney General, and the seven Probate Judges in the counties comprising Alabama's First Congressional District, where Wesch resided and voted. A three-judge panel was convened to hear the case pursuant to 28 U.S.C. § 2284.

On December 4, 1991, Michael Figures and Joseph Mitchell moved to intervene on behalf of themselves and on behalf of all qualified electors who were African-American residents of Alabama. Their complaint in intervention alleged that Alabama's existing congressional districts violated Section 2 of the Voting

Rights Act, 42 U.S.C. § 1973, because they did not "allow for the election of an African-American to Congress from the State of Alabama." The District Court granted the Motion to Intervene and certified the Intervenors as a class pursuant to *Federal Rule of Civil Procedure* 23(b)(1)(B), with Figures and Mitchell serving as class representatives.

At trial, the parties, including the African-American Intervenors, entered into the following stipulation with regard to the creation of a majority African-American district:

> According to 1990 data compiled and released by the United States Bureau of the Census, the African-American population in the state of Alabama is sufficiently compact and contiguous to comprise a single member significant majority (65% or more) African-American congressional district. Consequently, all parties agree that a significant majority African-American congressional district should be created.

The parties submitted six proposed redistricting plans to the District Court. *Wesch v. Hunt*, 785 F.Supp. 1491, 1495 (S.D.Ala. 1992). Five of these plans were proposed by the African-American Intervenors. Only one of these plans, however, the Hilliard Plan, contained two majority African-American district. *Id.* at 1496. Although the Intervenors presented testimony in support of the Hilliard Plan,[1] other witnesses who testified on behalf of the Intervenors, including their expert, expressed reservations concerning whether two viable majority African-American districts could be created in Alabama. The District Court concluded that the Intervenors "took the position that the Hilliard Plan probably provided obstacles of sufficient nature to cast doubt on their opportunity to elect candidates of their

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[1] The Intervenors offered testimony in support of the Hilliard Plan even though neither of its majority African-American districts had an African-American population of 65% or more, as called for by the stipulation.

choice" in that Plan's proposed majority African-American districts. *Id.*

On March 9, 1992, the District Court entered its final judgment. *Id.* at 1501. The Court (a) declared Alabama's existing congressional districts unconstitutional; (b) enjoined the holding of any further elections under the existing districts; and (c) implemented the "1992 Alabama Redistricting Plan" for use in the 1992 congressional elections and thereafter, unless and until the Alabama Legislature enacted a timely, valid redistricting plan. The District Court's final judgment specifically provided that the Defendants were enjoined from

> *failing to conduct congressional elections in calendar years after 1992 in accordance with the 1992 Alabama Redistricting Plan described in Paragraph (b) above.* Provided, however, that the injunction contained in this paragraph (c) shall not be effective in the event the Alabama Legislature duly enacts a redistricting plan and has the same precleared in accordance with federal law in time for congressional elections to proceed without delay under then applicable state and federal law.

Id. at 1501-02 (emphasis added). The "1992 Alabama Redistricting Plan" adopted by the District Court was substantially the same as the plan which had been submitted by the Respondent Wesch. *Id.* at 1500. The Court's plan included a single majority African-American district with an African-American population of 67.53%. *Id.* at 1557-81.[2]

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[2] The Petitioners erroneously assert that the District Court "considered" only two of the six plans submitted because the other four did not achieve precise population equality among the districts. Petition for Writ of Certiorari p. 7. However, the District Court *did* "consider," and heard testimony concerning, all of the plans submitted, including the Hilliard two-district plan. The District Court simply concluded, on the merits, that it could not constitutionally adopt any of the plans which did not meet the requirement of exact population equality. *Wesch*, 785 F.Supp. at 1497-98.

The District Court also noted in its final judgment that the Alabama Legislature had enacted a congressional redistricting plan, but that the Legislature's plan had not yet been precleared by the Attorney General under Section 5 of the Voting Rights Act. *Id.* at 1500. The Legislature's plan, like the District Court's plan, contained a single majority African-American district. On March 27, 1992, the Attorney General refused to preclear the Legislature's plan because the state had failed to adequately explain why a second majority African-American district was not created. Thereafter, the African-American Intervenors filed a Rule 60(b) motion which asked the District Court to modify its plan to include a second majority African-American district, arguing that such was required in light of the Attorney General's objection to the Legislature's plan. The District Court denied the Intervenors' motion, and they appealed to this Court. In their jurisdictional statement filed with this Court, the Intervenors specifically argued that the District Court should be required to implement a two-majority African-American district plan for use in the 1994 elections, and thereafter:

> Assuming, *arguendo*, that the Court's refusal to modify its remedial plan was justified by the exigencies of the upcoming election, this Court should still summarily reverse and remand for curative action by the District Court. The Court's final judgment expressly requires that the court-ordered plan be used not just in the 1992 elections, but also "in calendar years after 1992" unless a legislative plan is precleared "in time for congressional elections to proceed without delay under then applicable state and federal law." 6A. *While it is now too late to adopt a racially fair plan for the 1992 elections — and Appellants do not seek to do so — there is no basis for permitting any further use of the court's flawed remedial plan.*

(Appellants' Jurisdictional Statement in *Figures v. Hunt*, Case No. 91-1992, n. 10) (emphasis added). This Court, however,

summarily affirmed the District Court's refusal to modify its plan. *Figures v. Hunt*, __ U.S. __, 113 S.Ct. 1233, 122 L.Ed.2d 640 (1993).[3] In the meantime, the 1992 congressional elections were held under the District Court's plan.

After this Court affirmed the District Court's refusal to modify its plan, the Petitioners Darryl Sinkfield, et al filed an amended complaint in the Circuit Court of Montgomery County, Alabama in a civil action styled *Sinkfield v. Camp*. The Petitioners alleged that they are all registered African-American voters in the State of Alabama, and sued on their own behalf and as representatives of a class composed of all African-American citizens of Alabama. Their original complaint in the state court case related only to state legislative redistricting. Their amended complaint, however, asserted that the Legislature's failure to re-draw Alabama's congressional districts deprived the Petitioners of certain rights guaranteed under the Alabama and United States Constitutions and Section 2 of the Voting Rights Act. The apparent basis for these claims was that Alabama has only one majority African-American congressional district. The amended complaint further asked the state court to implement a redistricting plan of its own.

Wesch moved the District Court to stay the state court proceedings, to the extent that they related to congressional redistricting, pursuant to the All-Writs Act, 28 U.S.C. § 1651, and the provisions of the Anti-Injunction Act, 28 U.S.C. § 2283, which specifically empower a federal court to enjoin state court proceedings in aid of its jurisdiction, or to protect or effectuate its judgments. After a hearing on July 13, 1993 at which counsel for

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[3] The Defendant Billy Joe Camp filed a separate appeal to this Court, alleging that the District Court erred when it refused to adopt the plan enacted by the Legislature, but subsequently rejected by the Attorney General, as its remedial plan. This Court summarily affirmed the District Court. *Camp v. Wesch*, __ U.S. __, 112 S.Ct. 1926, 118 L.Ed.2d 525 (1992).

the Petitioners appeared, the District Court granted Wesch's motion and enjoined any further proceedings in the state court case with regard to congressional redistricting.

The Petitioners appealed to the United States Court of Appeals for the Eleventh Circuit, which stayed the District Court's injunction so that the state court action could proceed pending appeal. The state court case was tried on October 1, 1993 but no decision was rendered. On October 25, 1993, the Eleventh Circuit entered its order affirming the District Court's injunction and vacating its stay pending appeal. (Appendix to Petition for Writ of Certiorari 1-a). The Petitioners now seek a writ of certiorari from this Court and a reversal of the Eleventh Circuit's ruling.

SUMMARY OF THE ARGUMENT

1. The lower courts did not abuse their discretion in enjoining a congressional redistricting action in a state court. The state court action represented a direct attempt to evade or undermine the District Court's previously-entered final judgment implementing a remedial congressional redistricting plan for the remainder of this decade, or until the state legislature enacts a valid plan of its own. Accordingly, the District Court properly enjoined the state court action under the All-Writs Act, 28 U.S.C. § 1651, and the Anti-Injunction Act, 28 U.S.C. § 2283, in aid of the District Court's jurisdiction and to protect the *res judicata* effect of its final judgment implementing a remedial redistricting plan.

2. This Court's decision in *Growe v. Emison*, __ U.S. __, 113 S.Ct. 1075, 122 L.Ed.2d 38 (1993), was rendered on facts readily distinguishable from those in the instant case and did not require the lower courts to allow the state court action to proceed. *Growe* stands only for the proposition that federal courts should defer to the timely efforts of a state court to remedy an existing invalid plan. *Growe* does not require a federal court, once it has adopted

a valid remedial plan, to permit its remedial plan and its final judgment to be superseded or replaced by virtue of state court litigation subsequently commenced by dissatisfied voters whose interests were fully represented in the federal court action. The Petitioners' view of the *Growe* decision should be rejected because it would deprive federal courts of the ability to provide meaningful, stable relief in redistricting cases and would, in effect, confer jurisdiction upon state courts to decide purely political questions by substituting a new redistricting plan for a federal court plan which meets all legal criteria.

ARGUMENT

A. The standard of review

The grant of an injunction against state court proceedings is reviewable for an abuse of discretion. *Delta Airlines, Inc. v. McCoy Restaurants, Inc.*, 708 F.2d 582, 587 (11th Cir. 1983).

B. The District Court correctly enjoined the state court redistricting action pursuant to the All-Writs Act and the "in aid of jurisdiction" and "relitigation" exceptions to the Anti-Injunction Act.

The District Court's injunction against the state court redistricting action was authorized by the All-Writs Act, 28 U.S.C. § 1651, and the Anti-Injunction Act, 28 U.S.C. § 2283. The All-Writs Act empowers federal courts "to issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law," and has further been interpreted to permit the issuance of injunctions to protect or effectuate federal court judgments. *See, e.g., Kelly v. Merrill Lynch, Pierce, Fenner and Smith,* 985 F.2d 1067, 1069 (11th Cir. 1993); *Kinnear-Weed Corporation v. Humble Oil and Refining Company,* 441 F.2d 631, 637 (5th Cir.), *cert. denied,* 404 U.S. 941, 92 S.Ct. 285, 30 L.Ed.2d 255 (1971); *Ward v. Pennsylvania New York Central Transportation Company,* 456 F.2d 1046, 1048 (2d Cir. 1972). More specifically, the Anti-Injunction Act, while generally prohibiting federal courts from enjoining state court proceedings, expressly authorizes a federal court to issue such an injunction "where necessary in aid of its jurisdiction, or to protect or effectuate its judgments." Here, the injunction against the state court redistricting action was proper both in aid of the jurisdiction the District Court assumed and exercised when it adopted a remedial congressional redistricting plan, and to protect or effectuate the District Court's judgment implementing that plan.

First, the District Court assumed jurisdiction of the congressional redistricting question in Alabama when it heard and sustained the Respondent's constitutional attack against the existing districts and prescribed a remedial redistricting plan. The class of African-American Intervenors, which included the Petitioners herein, expressly invoked and consented to that jurisdiction when they filed their complaint in intervention. The District Court's jurisdiction continued beyond its final judgment because a court which issues an injunction automatically retains jurisdiction to enforce and protect its decree. *See, e.g., Suntex Dairy v. Bergland,* 591 F.2d 1063, 1068 (5th Cir. 1979); *U.S. v. Fisher,* 864 F.2d 434 (7th Cir. 1988); *McCall-Bey v. Franzen,* 777 F.2d 1178 (7th Cir. 1985). The Petitioners' subsequent state court redistricting action represented an obvious attempt to evade or undermine the District Court's jurisdiction by asking the state court to replace the District Court's remedial plan with a plan of its own. Such an attempt obviously had the potential to greatly disrupt Alabama's electoral process because Alabama can have only one set of congressional districts. Had the state court action been allowed to proceed, it likely would have resulted in the formulation of a conflicting state court plan and neither the voters, the election officials, the incumbent congressmen, nor potential candidates would have known which plan should be given effect. Under these circumstances, it was particularly appropriate for the District Court to exercise its discretion by enjoining the state court redistricting action, thereby preventing needless confusion and disruption of the electoral process. Such an injunction is firmly supported by Eleventh Circuit precedent in an analogous setting. *See Battle v. Liberty National Life Insurance Company,* 877 F.2d 877 (11th Cir. 1989) (upholding injunction against a state court action asserting claims similar to those which had already been settled in a federal class action which affected a large segment of the state's population, reasoning that if the state court action was allowed to proceed it would nullify the work done by the federal court,

confuse a significant portion of the population, and subject the parties to added expense and conflicting orders).

Second, the "protect or effectuate its judgments" exception to the Anti-Injunction Act, also known as the "relitigation" exception, also supports the District Court's injunction against the state court action. This provision authorizes federal courts to enjoin state court proceedings in order to protect the *res judicata* effect of their judgments. *See Southwest Airlines Company v. Texas International Airlines,* 546 F.2d 84 (5th Cir. 1977). Federal courts apply the law of *res judicata* of the state in which they sit. *NAACP v. Hunt,* 891 F.2d 1555 (11th Cir. 1990). Under Alabama law, a judgment in a former action acts as a *res judicata* bar to a subsequent action if (1) the prior judgment was rendered on the merits, (2) the prior judgment was rendered by a court of competent jurisdiction, (3) the parties in both suits are substantially identical, and (4) the same cause of action is present in both suits. *Hughes v. Allenstein,* 514 So.2d 858 (Ala. 1987). The parties are deemed to be substantially identical if the party against whom *res judicata* is asserted was a party formerly. *AAA Equipment and Rental Company v. Bailey,* 384 So.2d 107, 109 (Ala. 1980). The "causes of action" are the same if they flow from a single act or set of circumstances and if substantially the same evidence would support a recovery in both actions. *See Geer Brothers, Inc. v. Crump,* 349 So.2d 577 (Ala. 1977). If the elements of *res judicata* are present, "any issue that *was or could have been* adjudicated in the prior action is barred from further litigation." *Hughes,* 514 So.2d at 860 (emphasis in original).

Here, the District Court's final judgment implementing a remedial redistricting plan was plainly *res judicata* as to the state court redistricting action filed by the Petitioners. The Petitioners do not dispute that the District Court's final judgment was rendered on the merits; neither do they dispute that the District Court had jurisdiction to enter the judgment. As members of the certified class of African-American Intervenors in the District

Court case, the Petitioners were parties to that action and were therefore bound by the District Court's judgments, including the denial of the Intervenor class' Rule 60(b) motion seeking implementation of a two-majority African-American district plan. *See Fowler v. Birmingham News Company,* 608 F.2d 1055 (5th Cir. 1979). Further, the relief the Petitioners seek in the state court is precisely the same relief their class sought and was denied in the District Court — a court-ordered plan containing two majority African-American districts. Therefore, the causes of action in both suits are the same for purposes of *res judicata.*[4] Under these circumstances, it was entirely appropriate for the District Court to protect its judgment by enjoining the Petitioners' attempts to re-litigate the redistricting question in state court after their class had lost in the District Court and this Court had summarily affirmed the District Court's rulings.

C. *Growe v. Emison* does not require reversal of the lower courts' rulings.

The sole basis upon which the Petitioners rest their claim is their assertion that this Court's decision in *Growe v. Emison,* __ U.S. __, 113 S.Ct. 1075, 122 L.Ed.2d 388 (1993) requires federal

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[4] In their state court complaint, the Petitioners appeared to claim, among other things, that they were entitled to a two-majority African-American district plan under Section 2 of the Voting Rights Act. They have now expressly disavowed any such claim and now contend that their sole federal claim is their assertion that under *Growe v. Emison,* __ U.S. __, 113 S.Ct. 1075, 122 L.Ed.2d 388 (1993), they are entitled to a redistricting plan drawn by a state court rather than a federal court. Petition for Writ of Certiorari, p. 10, n 7. The maintain that their state court action does not seek to "relitigate" or "overturn" the District Court's plan. *Id.* at p. 16. Indeed, the Petitioners conceded during oral argument in the Court of Appeals that the District Court's plan is valid and constitutional. Even accepting the Petitioners' present characterization of their claim, it still constitutes the "same cause of action" as the claim their class raised in the District Court because both claims arise from the same facts — i.e., the Alabama Legislature's failure to enact a valid congressional redistricting plan following the 1990 census.

court which have already implemented an admittedly valid, constitutional redistricting plan to "defer" to subsequent litigation in state court designed to replace the federal court's plan with a new state court plan. *Growe* does not stand for such a proposition and this Court should not extend *Growe* to the extreme lengths urged by the Petitioners.

The facts of *Growe* were vastly different from the facts of this case. In *Growe,* the existing electoral districts were unconstitutionally malapportioned. Concurrent lawsuits were pending in both the state and federal courts to remedy the existing malapportionment. The federal court enjoined the state court redistricting action even though the state court was prepared to implement a remedial plan in as timely a manner as the federal court. This Court reversed the District Court's injunction, holding that under *Scott v. Germano,* 381 U.S. 407, 85 S.Ct. 1525, 14 L.Ed.2d 477 (1965), the District Court should have deferred to the state court's timely efforts to remedy the malapportioned districts. However, this Court also explicitly held that

> the District Court would have been justified in adopting its own plan if it had been apparent that the state court, through no fault of the District Court itself, would not develop a redistricting plan in time for the primaries. *Germano* requires deferral, not abstention.

Growe, 122 L.Ed.2d at 401. Here, unlike in *Growe,* a federal court has already implemented a remedial plan which has twice been tested and upheld on appeals to this Court, including one appeal by a certified class of litigants which includes the Petitioners, the state court plaintiffs. Moreover, it appears that the Petitioners now concede that there is nothing unconstitutional or illegal about the remedial plan prescribed by the District Court. (*See* footnote 4, *supra*). Nevertheless, after their class had fully litigated the redistricting question in federal court and lost, the

Petitioners then filed a new lawsuit in state court whose sole purpose was to replace an admittedly valid federal court plan with a new state court plan — apparently, simply for the sake of having a state court plan rather than a federal court plan in place. The Petitioners have neither alleged nor proven any change in circumstances since the entry of the District Court's final judgment that warrants a re-examination of the redistricting question. This Court' s holding in *Growe* does not compel a federal court to abandon a valid judgment and "defer" to such a repetitive and needless state court action. Rather, *Growe* requires only that a federal court defer, in the first instance, to a state court's timely efforts to remedy an existing malapportioned plan. Nothing in *Growe* negates the *res judicata* effect of a federal court's final judgment in a redistricting case or authorizes a state court to supersede a valid federal court remedial plan with a plan of its own.

The Petitioners argue that in light of *Growe*, a state court must always be considered the equivalent of a state legislature for purposes of redistricting and that since a federal court plan is always susceptible to later change by the legislature, such a plan can never have any *res judicata* effect on subsequent redistricting litigation in a state court. This argument represents a wholly unwarranted expansion of the holding in *Growe* which this Court should reject, for several reasons.

First, if this Court accepts the Petitioners' interpretation of *Growe*, it would permit federal court redistricting orders to be cast aside at the whim of any dissatisfied voter who, like the Petitioners herein, can locate a friendly defendant to sue in a new state court redistricting action. Such an expansion of *Growe* would destroy the ability of federal courts to formulate stable and meaningful relief in redistricting cases. It would also subject the electoral process to constant flux and disarray. Redistricting cases are so politically charged, and affect so many people, that there are sure to be many individuals who would seize any

opportunity to replace a federal court redistricting plan with a state court plan politically more to their liking — and this is exactly what the Petitioners here are attempting to do.

Second, the Petitioners' interpretation of *Growe* reflects a failure to recognize the very limited role that courts — whether state or federal — have in redistricting. If it is true that, as this Court recognized in *Growe,* reapportionment is primarily a matter of state rather than federal concern, then it is equally true that "reapportionment is primarily a matter for legislative consideration and determination, and . . . judicial relief becomes appropriate only when a legislature fails to reapportion according to federal constitutional requisites in a timely fashion after having had an adequate opportunity to do so." *Reynolds v. Sims,* 377 U.S. 533, 586, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964). In other words, a court's role in redistricting is limited to remedying an *existing legally defective or invalid plan* when the legislature fails to do so in a timely manner. Once a court of competent jurisdiction implements such a valid remedy, the role of the courts is over, absent some later change in circumstances rendering the court's plan invalid. Assuming the court's plan is a valid one, the question of whether that plan should be changed then becomes purely a *political* question for the legislature. In this case, the Petitioners have conceded that the District Court's plan is valid and constitutional. Therefore, they are asking the state court not to provide a legal remedy for an existing invalid plan, but to decide, as a political matter only, whether the District Court's plan should be replaced. Nothing in *Growe* intimates that this Court intended to confer jurisdiction on the state courts to decide political questions, even assuming that this Court had the power to do so. Further, the Petitioners have not pointed to any provision of Alabama law which gives state courts the authority to decide political questions. Indeed, Alabama law is to the contrary. *See, e.g., Longshore v. City of Homewood,* 277 Ala. 444, 446, 171 So.2d 453 (1965) ("elections belong to the

political branch of the government, and, in the absence of special constitutional or statutory provisions, are beyond the control of judicial power"); *Ex parte State ex rel Tucker*, 236 Ala. 284, 181 So. 761 (1938) (as a general rule, elections are a political matter which are beyond the power of a court of equity to control).

For the foregoing reasons, the principle of deference to state courts reiterated in *Growe* does not apply to this case and should not be extended to apply to this case. The Petitioners' reliance on *Growe* is therefore misplaced, as both the District Court and the Court of Appeals correctly recognized.

CONCLUSION

The lower courts properly enjoined the state court redistricting action pursuant to the authority granted under the All-Writs Act and the Anti-Injunction Act. The injunction is not contrary to this Court's decision in *Growe*, and the Petitioners have not established that any "special and important reasons" exist for granting certiorari. *See* Supreme Court Rule 10.1. Therefore, the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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